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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,299	03/03/2004	Al Hester	20000.0001US01	4670
7590	09/21/2005		EXAMINER	
Withers & Keys, LLC; Jeramie Keys P.O. Box 71355 Marietta, GA 30007-1355			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/792,299	HESTER, AL	
	Examiner	Art Unit	
	Alexandra K. Pechhold	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,6 and 7 is/are rejected.
 7) Claim(s) 2-5 and 8-10 is/are objected to.
 8) Claim(s) 1-19 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>filed 4/5/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, drawn to a soil compactor vehicle, classified in class 172, subclass 133.
 - II. Claims 11-19, drawn to a method of compacting soil, classified in class 172, subclass 1.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the vehicle can be used to practice another process that does not concern distributing the weight of the bucket in order to use the compactor as desired.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Jeramie Keys on September 13, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 11-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

DETAILED ACTION

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill et al (US 5,360,288) in view of McCartney (US 4,530,620).**

Regarding claim 1, O'Neill discloses a soil compactor vehicle, comprising:

- a frame (seen as the frame of vehicle (10) in Fig. 1);
- a plurality of compaction wheels (seen as wheels 12) coupled to the frame, the compaction wheels including radially extending compaction studs (seen as tips 14) that have a substantially flat ground contacting surface, the compaction studs being spaced about the periphery of the compaction wheels and defining circumferential grooves (seen as rows 15) on the compaction wheels;
- a plurality of wiper bars (seen as frames 22 and teeth 20) fixed in relation to the frame and being positioned so as to extend into the circumferential grooves defined on the compaction wheels by the compaction studs (see Figs. 3 and 4); and

- an engine operable to drive one or more of the plurality of compaction wheels (inherent in the disclosure of O'Neill).

O'Neill fails to disclose a loader bucket movably coupled to the frame, and a control system operable to control the loader bucket position relative to the frame. O'Neill illustrates a blade at the front of the compaction vehicle seen in Fig. 1, but does not disclose any details thereof. McCartney teaches a compactor vehicle like O'Neill, and furthermore discloses a front bucket loader (21) with a control system to control the position relative to the frame (see arms in Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of O'Neill to include a loader bucket movably coupled to the frame and a control system operable to control the loader bucket position relative to the frame, as taught by McCartney, since McCartney states in column 1, lines 4-16 that a compactor can simultaneously spread waste with a bucket while compacting achieving two goals with one machine.

7. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill et al (US 5,360,288) and McCartney (US 4,530,620) as applied to claim 1 above, and further in view of Vicars, III et al (US 6,796,762).** The combination of O'Neill and McCartney fails to disclose a skid steering system. Vicars teaches a skid-steer loader, and points out how skid steer loaders are highly maneuverable, agile, compact vehicles with a wide range of applications in the agricultural, industrial and construction fields. Vicars states how skid steer loaders are useful for raising, lifting, carrying, and pushing objects. Their compact nature and low profile allows them to

enter enclosed spaces and maneuver under low overhead areas. Their low center of gravity which results from their compact nature also allows them to traverse uneven terrain without overturning (Col 1, lines 16-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of O'Neill having the bucket of McCartney to include a skid steering system as taught by Vicars, since Vicars states in column 1, lines 16-25 the numerous advantages of skid steer loaders, in that they are highly maneuverable, agile, compact vehicles with a wide range of applications in the agricultural, industrial and construction fields, and are useful for raising, lifting, carrying, and pushing objects, and their compact nature and low profile allows them to enter enclosed spaces and maneuver under low overhead areas, and low center of gravity which results from their compact nature also allows them to traverse uneven terrain without overturning.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill et al (US 5,360,288) and McCartney (US 4,530,620) in view of Vicars, III et al (US 6,796,762). O'Neill discloses the limitations of the claimed invention as discussed with respect to claim 1 above.

O'Neill fails to disclose a loader bucket movably coupled to the frame, and a control system operable to control the loader bucket position relative to the frame. O'Neill illustrates a blade at the front of the compaction vehicle seen in Fig. 1, but does not disclose any details thereof. McCartney teaches a compactor vehicle like O'Neill, and furthermore discloses a front bucket loader (21) with a control system to control the position relative to the frame (see arms in Fig. 1). It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to modify the vehicle of O'Neill to include a loader bucket movably coupled to the frame and a control system operable to control the loader bucket position relative to the frame, as taught by McCartney, since McCartney states in column 1, lines 4-16 that a compactor can simultaneously spread waste with a bucket while compacting achieving two goals with one machine.

The combination of O'Neill and McCartney fails to disclose a skid steer loader and steering system. Vicars teaches a skid-steer loader, and points out how skid steer loaders are highly maneuverable, agile, compact vehicles with a wide range of applications in the agricultural, industrial and construction fields. Vicars states how skid steer loaders are useful for raising, lifting, carrying, and pushing objects. Their compact nature and low profile allows them to enter enclosed spaces and maneuver under low overhead areas. Their low center of gravity which results from their compact nature also allows them to traverse uneven terrain without overturning (Col 1, lines 16-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of O'Neill having the bucket of McCartney to include a skid steering system as taught by Vicars, since Vicars states in column 1, lines 16-25 the numerous advantages of skid steer loaders, in that they are highly maneuverable, agile, compact vehicles with a wide range of applications in the agricultural, industrial and construction fields, and are useful for raising, lifting, carrying, and pushing objects, and their compact nature and low profile allows them to enter enclosed spaces and

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maneuver under low overhead areas, and low center of gravity which results from their compact nature also allows them to traverse uneven terrain without overturning.

Allowable Subject Matter

9. Claims 2-5 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
9/15/05